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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/960,756	09/21/2001	Keith Branden Eberlein	CM04703H	6318

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EXAMINER
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GESESSE, TILAHUN

ART UNIT	PAPER NUMBER
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2684

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DATE MAILED: 04/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/960,756

**Applicant(s)**

EBERLEIN ET AL.

**Examiner**

Tilahun B Gesesse

**Art Unit**

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11 and 13-19 is/are rejected.
- 7) ☐ Claim(s) 10 and 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-4 and 13-19 are rejected under 35 U.S.C. 102(a) as being anticipated by Peterson et al "Peterson" (6,163,697)

3. As to claim 1, Peterson discloses a communication system (column 1, lines 10-17 and figure 1) comprising at least a first and second simulcast station (101-104) at a first remote site (column 3, lines 21-45 and figure 1), comprising: Peterson discloses detecting unavailability of the first simulcast station for communicating o a first communication resource (117-122) (column 4, lines 2-7 and figure 1), determining if the second simulcast station (site C and D) is available for supporting simulcast transmissions on the first communication resource (23-24), and if the second simulcast station is available , assigning the second simulcast station to communication resource (column 4, lines 10-21 and figure 1).

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As to claim 2, Peterson discloses communicating, by the second simulcast site (site C and D) simulcast message on the first communication resource (column 4, lines 39-54).

As to claim 3, Peterson discloses detecting, determining and assigning is performed by a simulcast site controller (111) (column 4, lines 39-54).

As to claim 4, Peterson discloses detecting is accomplished by the simulcast site controller (111) failing to receive a response to a message sent to the first simulcast station (column 4, lines 39-54).

As to claim 13, Peterson discloses the unavailability of the first simulcast station is due to a malfunction of the first simulcast station (when subscriber unit 114 roams to a far distance where the simulcast site A and B fails to provide service , column 4 lines 2-10 and figure 1).

Claim 14, which recites the steps of system , the same as claim 1, is rejected for the same reason as set forth in the claim.

As to claim 15, Peterson discloses the first simulcast channel is used for communicating of control information (figure 1).

As to claim 16, Peterson discloses assigning, by the simulcast site controller (111), members of a second simulcast channel (23-24), the members comprising respective second available simulcast stations (107-108) at each of the remote sites (C and D) and commencing simulcast communication using the second simulcast channel (figure 1).

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As to claim 17, Peterson discloses the second simulcast channel is a payload channel (column 6, lines 1-12 and figure 5).

As to claim 18, Peterson discloses a communication system (column 1, lines 10-17 and figure 1) comprising at least a first and second simulcast station (101-104) at a first remote site (column 3, lines 21-45 and figure 1), comprising: Peterson discloses detecting unavailability of the first simulcast station for communicating o a first communication resource (117-122) (column 4, lines 2-7 and figure 1), determining if the second simulcast station (site C and D) is available for supporting simulcast transmissions on the first communication resource (23-24), and if the second simulcast station is available , assigning the second simulcast station to communication resource (column 4, lines 10-21 and figure 1). Peterson also discloses simulcast site controller and zone manager to control operation of simulcast communication system (figure 1).

As to claim 19, Peterson discloses communicating, by the second simulcast site (site C and D) simulcast message on the first communication resource (column 4, lines 39-54).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 5-7 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson in view of Derango et al "Derango" (5,867,488).

As to claims 5 and 11, Peterson discloses a comparator adapted (zone controller 11 of figure 1) for sending data to be communicated over the simulcast channel to one or more of the simulcast stations (figure 1). Peterson does not disclose a timestamp specifying when the data will be transmitted. However, Derango teaches a timestamp specifying when the data will be transmitted (abstract). Since, Peterson in similar field of art, discloses simulcast communication system (column 1, lines 10-17). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention made to combine Peterson and Derango in specifying transmit data by timestamp, as taught by Derango, in order to monitor the transmit data get the user on time.

As to claims 6-7, Peterson discloses detecting and managing the operation of and manipulates operation of communication system (100) (column 3, lines 46-55 and figure 1).

6. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson in view of Derango, as applied to claims 5-7 above, and further in view of Goshay et al "Goshay" (5,802,454).

As to claims 8-9, Peterson and Derango do not expressly teach internet protocol network and address. However, Goshay teach simulcast and internet protocol network (column 12, lines 9-47 and figure 6). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention made to combine Peterson , Derango

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and Goshay in interfacing internet data communication, as taught by Goshay, in order to monitor the transmit data packet to users in simulcast communication system.

***Allowable Subject Matter***

7. Claims 10 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art does not expressly teach the step of sending an internet protocol packet instructing the first simulcast station to shut down.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Schieve et al (5,263,177) discloses simulcast systems, overlapping coverage area (111,113,115,117) and assign one site to a mobile unit (121,125) residing in an overlap area (abstract).

Grube (5123,110) discloses receiving message to be transmitted to a group of users, check critical site list and allocate communication resources within critical user list and assign communication resources within sites where there are critical users, but not within sites where there are no critical user (figure 3).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tilahun B Gesesse whose telephone number is 703-308-5873. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 703-308-7745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TBG

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April 8, 2004

  
TILAHUN GESSESSE  
PATENT EXAMINER